



Pursuant to a plea agreement, Caleb R. Taylor pled guilty to battery by bodily waste as a Class D felony. He appeals the trial court's order denying his motion to reduce his conviction to a Class A misdemeanor pursuant to Ind. Code § 35-50-2-7(b).

We affirm.

Taylor's sole argument on appeal is that the trial court erred in denying his motion to reduce his conviction. Taylor contends that the trial court either erroneously determined that it did not have the authority to reduce his conviction or erroneously determined that Taylor was not entitled to such reduction.

Taylor's argument fails for two reasons. First, the plea agreement provided that Taylor would plead guilty to one of the three Class D felonies with which Taylor was charged and that the State would dismiss the remaining two felony counts. By accepting the terms of the plea agreement, the trial court was bound by its terms and was not free to convict Taylor of a Class A misdemeanor. Ind. Code § 35-35-3-3(e); *State ex rel. Goldsmith v. Marion County Superior Court, Criminal Division No. 1*, 419 N.E.2d 109, 114 (Ind. 1981).

Second, Ind. Code § 35-50-2-7(b) provides that "if a person has committed a Class D felony, the court *may* enter judgment of conviction of a Class A misdemeanor." (Emphasis added.) The statute is permissive. If the trial court had discretion to convict Taylor of a Class A misdemeanor, it was not required to do so. Here, it is clear that the trial court chose not to exercise its discretion to impose alternative misdemeanor sentencing. In denying Taylor's motion, the court noted that the facts from the probable cause information were "so distressing" that it "wouldn't grant this guy AMS (alterative

misdemeanor sentencing) . . . under any circumstances.” Transcript, p. 49. The trial court was within its discretion to do so.

Affirmed.

DARDEN, J., and MATHIAS, J., concur.